

## **IC 12-10-12**

### **Chapter 12. Health Facility Preadmission Screening**

#### **IC 12-10-12-1**

##### **"Agency" defined**

Sec. 1. As used in this chapter, "agency" means the area agency on aging designated by the division to carry out this chapter in the agency's established administrative region.

*As added by P.L.2-1992, SEC.4. Amended by P.L.150-1995, SEC.16; P.L.154-1995, SEC.5.*

#### **IC 12-10-12-2**

##### **"Designee" defined**

Sec. 2. As used in this chapter, "designee" refers to an individual who is designated by the director of the agency under section 27 of this chapter.

*As added by P.L.2-1992, SEC.4.*

#### **IC 12-10-12-3**

##### **"Health facility" defined**

Sec. 3. As used in this chapter, "health facility" means a facility:

(1) that is licensed by the state department of health under IC 16-28; and

(2) that:

(A) provides comprehensive nursing care, room, food, laundry, administration of medications, special diets, and treatments; and

(B) may provide rehabilitative and restorative therapies; under the order of an attending physician.

*As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.82.*

#### **IC 12-10-12-4**

##### **"Office" defined**

Sec. 4. As used in this chapter, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

*As added by P.L.2-1992, SEC.4.*

#### **IC 12-10-12-5**

##### **Admission to nursing facility; screening and approval; exception; developmentally disabled or mentally ill; assessment**

Sec. 5. (a) Except as provided in sections 27 through 31 of this chapter, an individual who is admitted to a nursing facility must first have been screened and approved for placement under the nursing facility preadmission screening program described in this chapter.

(b) An individual who is identified by the screening team under section 16 of this chapter as developmentally disabled or mentally ill (as defined in 42 U.S.C. 1396r(e)(7)) must be assessed to determine the appropriateness of nursing facility placement and the need for specialized services.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.2;*

*P.L.1-1993, SEC.98.*

#### **IC 12-10-12-6**

##### **Exception to prior approval requirement for licensed hospital discharge eligible for Medicaid**

Sec. 6. If an individual who is discharged from a hospital licensed under IC 16-21:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program; prior approval of the individual's admission to the nursing facility may not be required by the office under IC 12-15-21-1 through IC 12-15-21-3.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.3; P.L.2-1993, SEC.83.*

#### **IC 12-10-12-7**

##### **Application; necessary information**

Sec. 7. (a) An individual or the individual's parent or guardian, if the individual is not competent, who is required to be screened and approved under this chapter shall apply to the agency serving the county of the individual's residence for participation in a nursing facility preadmission screening program.

(b) The individual or the individual's parent or guardian if the individual is not competent shall provide the agency with the following:

(1) The individual's name.

(2) The address of the place where the screening team described in section 14 of this chapter may contact the individual.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.4.*

#### **IC 12-10-12-8**

##### **Notification to applicant**

Sec. 8. A nursing facility shall provide:

(1) an individual who applies for admission to the nursing facility; or

(2) the individual's parent or guardian if the individual is not competent;

a notification that meets the requirements of sections 9 and 10 of this chapter.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.5.*

#### **IC 12-10-12-9**

##### **Notification form**

Sec. 9. The notification required under section 8 of this chapter must be in writing on standardized forms prepared by the division and provided to the nursing facilities.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.6.*

#### **IC 12-10-12-10**

##### **Notification contents; acknowledgment by applicant; copies; violation**

Sec. 10. (a) The notification required under section 8 of this chapter must notify the applicant of the following:

(1) That the applicant is required under state law to apply to the agency serving the county of the applicant's residence for participation in a nursing facility preadmission screening program.

(2) That the applicant's failure to participate in the nursing facility preadmission screening program could result in the applicant's ineligibility for Medicaid reimbursement for per diem in any nursing facility for not more than one (1) year.

(3) That the nursing facility preadmission screening program consists of an assessment of the applicant's need for care in a nursing facility made by a team of individuals familiar with the needs of individuals seeking admission to nursing facilities.

(b) The notification must be signed by the applicant or the applicant's parent or guardian if the applicant is not competent before admission.

(c) If the applicant is admitted:

(1) the nursing facility shall retain one (1) signed copy of the notification for one (1) year; and

(2) the nursing facility shall deliver one (1) signed copy to the agency serving the county in which the applicant resides.

(d) A person who violates this section commits a Class A infraction.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.7.*

#### **IC 12-10-12-11**

##### **Time limitations**

Sec. 11. Each individual who is required to be screened and approved before admission to a nursing facility shall be screened, within the time permitted under this chapter, by the screening team described in section 14 of this chapter.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.8.*

#### **IC 12-10-12-12**

##### **Screening team; uniform rules**

Sec. 12. (a) The activities of the screening team must be conducted under uniform rules adopted under IC 4-22-2 by the director of the division.

(b) The rules must be developed in cooperation with the division of mental health and addiction and the office.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.9; P.L.215-2001, SEC.38.*

#### **IC 12-10-12-13**

##### **Screening team; requirements**

Sec. 13. The nursing facility preadmission screening program shall be conducted by a screening team that meets the requirements of

section 14 of this chapter.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.10.*

#### **IC 12-10-12-14**

##### **Screening team; membership; coordinator**

Sec. 14. (a) A screening team must consist of two (2) members.

(b) An applicant's physician shall participate as a member of the screening team.

(c) The agency that serves the county of the applicant's residence shall, subject to the approval of the division, also appoint an individual who:

- (1) represents the agency serving the area in which the applicant's residence is located; and
- (2) is familiar with personal care assessment.

(d) The agency shall, subject to the approval of the division, appoint one (1) of the individuals under subsection (c) to be the coordinator.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.11.*

#### **IC 12-10-12-15**

##### **Multiple screening teams**

Sec. 15. More than one (1) screening team may be appointed.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.12.*

#### **IC 12-10-12-16**

##### **Screening program assessments**

Sec. 16. (a) A screening team shall conduct a nursing facility preadmission screening program for each individual within the time permitted under this chapter. The program must consist of an assessment of the following:

- (1) The individual's medical needs.
- (2) The availability of services, other than services provided in a nursing facility, that are appropriate to the individual's needs.
- (3) The cost effectiveness of providing services appropriate to the individual's needs that are provided outside of, rather than within, a nursing facility.

(b) The assessment must be conducted in accordance with rules adopted under IC 4-22-2 by the director of the division in cooperation with the office.

(c) Communication among members of a screening team or between a screening team and the division or the office during the prescreening process may be conducted using any of the following:

- (1) Standard mail.
- (2) Express mail.
- (3) Facsimile machine.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.13; P.L.115-1997, SEC.1.*

#### **IC 12-10-12-17**

##### **Findings; appropriateness of placement**

Sec. 17. After an assessment is completed, the screening team shall find, by both members of the team, whether the placement of the

individual in a nursing facility is appropriate.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.14.*

### **IC 12-10-12-18**

#### **Review of findings; final determinations**

Sec. 18. The office shall do the following:

- (1) Review a screening team's finding.
- (2) Make the final determination only in the following cases:
  - (A) Where the individual is eligible for Medicaid.
  - (B) Members of the screening team disagree.
  - (C) A placement is denied.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.15.*

### **IC 12-10-12-19**

#### **Mandatory placement; conditions**

Sec. 19. Placement in a nursing facility may not be denied if any of the following conditions exist:

- (1) Community services that would be more appropriate than care in a nursing facility are not actually available.
- (2) The cost of appropriate community services would exceed the cost of placement in a nursing facility.
- (3) The applicant:
  - (A) has been determined to be eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.);
  - (B) needs a service that would make the applicant's placement in a nursing facility inappropriate when the service cannot be provided without the use of a new service made available under a home and community based services waiver approved by the Secretary of Health and Human Services under 42 U.S.C. 1396n; and
  - (C) chooses not to receive the service described under clause (B).

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.16; P.L.150-1995, SEC.17; P.L.154-1995, SEC.6.*

### **IC 12-10-12-20**

#### **Notice of determination; contents**

Sec. 20. (a) The agency shall provide the applicant with a written notice of the office's determination made under section 18 of this chapter if the placement is appropriate. The office shall provide written notice of a determination made under section 16 of this chapter when placement in a nursing facility is denied.

(b) If the office determines that an individual's placement in a nursing facility is not appropriate, the written notice must contain the following:

- (1) The reasons for the office's determination.
- (2) A detailed description of services available to the individual that, if used by the individual, make the placement of the individual in a nursing facility inappropriate.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.17.*

#### **IC 12-10-12-21**

##### **Administrative appeal of determination**

Sec. 21. An applicant aggrieved by a determination of the office may appeal the determination under rules concerning the appeal that are adopted by the office under IC 4-22-2.

*As added by P.L.2-1992, SEC.4.*

#### **IC 12-10-12-22**

##### **Judicial appeal**

Sec. 22. After exhausting all administrative remedies, the applicant may obtain judicial review under IC 4-21.5-5.

*As added by P.L.2-1992, SEC.4.*

#### **IC 12-10-12-23**

##### **Waiver of sanctions; conditions; application**

Sec. 23. An applicant may apply to the office for a waiver of the sanctions imposed by section 33 or 34 of this chapter if the following conditions are met:

- (1) The applicant has made an appropriate application under section 7 of this chapter.
- (2) The office has not provided the applicant with the notice required under section 20 of this chapter within twenty-five (25) days of the date the application was made under section 7 of this chapter.
- (3) The applicant, the applicant's physician, and the applicant's current custodian have cooperated with the screening team.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.18.*

#### **IC 12-10-12-24**

##### **Determination on application for waiver of sanctions**

Sec. 24. If the office finds that an applicant has filed an application for a waiver and has met the three (3) conditions set out in section 23 of this chapter, the office shall, not later than the second working day following the receipt of the application for a waiver, either:

- (1) issue the notice required by section 20 of this chapter; or
- (2) waive the sanctions imposed by sections 33 and 34 of this chapter.

*As added by P.L.2-1992, SEC.4.*

#### **IC 12-10-12-25**

##### **Administrative rules for preadmission screening assessment**

Sec. 25. The office shall adopt rules under IC 4-22-2 to permit an individual who has not applied for admission to a nursing facility to be assessed under section 16 of this chapter.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.19.*

#### **IC 12-10-12-26**

##### **Information gathering by division**

Sec. 26. The division shall collect the information necessary to do the following:

- (1) Determine the effectiveness of the preadmission screening program.
  - (2) Identify barriers to diversion of individuals to in-home care.
  - (3) Identify needs that may exist for additional in-home services.
- As added by P.L.2-1992, SEC.4.*

#### **IC 12-10-12-27**

##### **Designatory empowered to authorize unapproved temporary admissions**

Sec. 27. (a) The agency shall, subject to the approval of the division, designate at least one (1) individual who may authorize temporary admittance to a nursing facility under:

- (1) subsection (b); and
  - (2) sections 28, 30, and 31 of this chapter;
- without the approval required under this chapter.

(b) An individual designated under subsection (a) may authorize temporary admittance to a nursing home for a resident of Indiana if the resident:

- (1) has received treatment from and is being discharged from a hospital that is located in a state other than Indiana; and
- (2) will be participating in preadmission screening under this chapter.

(c) Notwithstanding a rule adopted under section 12 of this chapter, a screening team appointed to screen a nonresident under this section must:

- (1) conduct its assessment under section 16 of this chapter; and
- (2) report its findings;

within ten (10) days after its appointment.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.20; P.L.278-1993(ss), SEC.25; P.L.115-1997, SEC.2.*

#### **IC 12-10-12-27.1**

##### **Temporary admissions of nonresidents**

Sec. 27.1. An individual designated under section 27(a) of this chapter may authorize temporary admittance to a nursing home for a nonresident of Indiana if the nonresident:

- (1) was admitted to the hospital immediately after receiving treatment in the hospital's emergency department;
- (2) has received treatment from and is being discharged from a hospital licensed under IC 16-21; and
- (3) will be participating in preadmission screening under this chapter.

*As added by P.L.115-1997, SEC.3.*

#### **IC 12-10-12-28**

##### **Temporary admissions; grounds; limitations; regular assessment**

Sec. 28. (a) An individual may be admitted directly to a nursing facility from an inpatient bed of a community mental health center, a managed care provider (as defined in IC 12-7-2-127(b)), a state institution, or a hospital licensed under IC 16-21, subject to the requirements of 42 U.S.C. 1396r(e)(7), if, after the assessment required

by section 16 of this chapter is substantially complete, the designee makes a finding that services necessary to care for the individual outside of the center or hospital are not at that time available except in a nursing facility.

(b) The individual may remain in the nursing facility for the number of days designated by the designee without the approval required by this chapter.

(c) The number of days designated by the designee may not exceed the lesser of:

(1) the individual's estimated recovery time, plus twenty-five (25) days; or

(2) one hundred twenty (120) days.

(d) During the period under subsection (c), the assessment shall be modified and completed according to the individual's current needs and the determination of appropriate placement made under sections 16 and 17 of this chapter.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.21; P.L.2-1993, SEC.84; P.L.40-1994, SEC.20.*

#### **IC 12-10-12-28.5**

##### **List of long term care options provided to patients before discharge from hospitals**

Sec. 28.5. Before discharging a patient who will be participating in preadmission screening under this chapter, a hospital licensed under IC 16-21 shall give the patient a list of all long term care options that:

(1) may be available to the patient;

(2) are located within the hospital's service area; and

(3) are known to the hospital.

*As added by P.L.115-1997, SEC.4.*

#### **IC 12-10-12-29**

##### **Repealed**

*(Repealed by P.L.78-1992, SEC.28.)*

#### **IC 12-10-12-30**

##### **Admission upon probability of early discharge; limitations on obtaining approval**

Sec. 30. (a) An individual may be admitted to a nursing facility if the designee determines that it is probable that the individual will be discharged from the nursing facility within thirty (30) days of the individual's admission.

(b) If the individual:

(1) desires to remain in a nursing facility for more than thirty (30) days; and

(2) applies for approval under this chapter before the expiration of the thirty (30) days;

the individual has an additional twenty-five (25) days in which to obtain the approval.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.22.*

### **IC 12-10-12-31**

#### **Preapproval admission; grounds**

Sec. 31. An individual who has applied for approval under this chapter may be admitted before approval is granted if the designee determines that there will be serious harm to the physical or mental health of the individual if the individual is required to wait for approval.

*As added by P.L.2-1992, SEC.4.*

### **IC 12-10-12-32**

#### **Stay following unapproved admission; duration**

Sec. 32. An individual may remain in a nursing facility for not more than twenty-five (25) days without approval under this chapter.

*As added by P.L.2-1992, SEC.4. Amended by P.L.78-1992, SEC.23.*

### **IC 12-10-12-33**

#### **Medicaid assistance predicated upon preadmission screening and approval; intermediate care facility**

Sec. 33. If an individual:

- (1) does not participate in the health facility preadmission screening program described in this chapter; or
- (2) participates in the health facility preadmission screening program described in this chapter and is notified under section 20 of this chapter that the individual's placement in a health facility is not appropriate;

the individual is not eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.) for the payment of any part of the cost per diem provided to the individual in a part of a health facility certified as an intermediate care facility for one (1) year after the date of the individual's admission to the health facility.

*As added by P.L.2-1992, SEC.4.*

### **IC 12-10-12-34**

#### **Medicaid assistance predicated upon preadmission screening and approval; skilled health facility**

Sec. 34. If an individual:

- (1) refuses to participate in the health facility preadmission screening program described in this chapter; or
- (2) participates in the health facility preadmission screening program described in this chapter and is notified under section 20 of this chapter that the individual's placement in a health facility is not appropriate;

the individual is not eligible for assistance under the federal Medicaid program (42 U.S.C. 1396 et seq.) for the payment of any part of the cost per diem provided to the individual in a part of a health facility certified as a skilled health facility until the individual has participated in the health facility preadmission screening program and has been notified that placement in a health facility certified to provide skilled care is appropriate.

*As added by P.L.2-1992, SEC.4.*